

**UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT**  
**Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500**

**MOTION INFORMATION STATEMENT**

**Docket Number(s):** 12-4671(L)

**Caption [use short title]**

**Motion for:** Emergency Motion for  
Extention of Time and to File Deferred

In re Payment Card Interchange Fee and Merchant  
Discount Antitrust Litigation

Appendix

Set forth below precise, complete statement of relief sought:

Order exteding the date for Appellants

to file the Deferred Appendix from

December 2, 2014 to December 9, 2014

**MOVING PARTY:**

☐ Plaintiff

☐ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

**OPPOSING PARTY:** Appellees

**MOVING ATTORNEY:** Jeffrey I. Shinder

[name of attorney, with firm, address, phone number and e-mail]

**OPPOSING ATTORNEY:** Carter G. Phillips

Constantine Cannon LLP

Sidley Austin LLP

335 Madison Ave., New York, NY 10017

1501 K Street, NW, Washington, DC 20005

212-350-2700, jshinder@constantinecannon.com

202-736-8000, cphillips@sidley.com

**Court-Judge/Agency appealed from:** E.D.N.Y., Judge Gleeson

**Please check appropriate boxes:**

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes

☐ No

(explain): \_\_\_\_\_

Opposing counsel's position on motion:

☒ Unopposed

☐ Opposed

☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes

☒ No

☐ Don't Know

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND  
INJUNCTIONS PENDING APPEAL:**

Has request for relief been made below?

☐ Yes

☒ No

Has this relief been previously sought in this Court?

☐ Yes

☒ No

Requested return date and explanation of emergency: \_\_\_\_\_

Parties need sufficient time to prepare

the Deffered Appendix and streamline its

contents.

Is oral argument on motion requested?

☐ Yes

☒ No

(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes

☒ No

If yes, enter date: \_\_\_\_\_

**Signature of Moving Attorney:**

/s/ Jeffrey I. Shinder

**Date:** Nov. 21, 2014

Service by: ☒ CM/ECF

☐ Other [Attach proof of service]

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

IN RE PAYMENT CARD  
INTERCHANGE FEE AND MERCHANT  
DISCOUNT ANTITRUST LITIGATION

Nos. 12-4671(L), 12-4708, 12-4765, 13-4719, 13-4750, 13-4751, 13-4752, 14-032, 14-117, 14-119, 14-133, 14-157, 14-159, 14-192, 14-197, 14-219, 14-241, 14-250, 14-266, 14-303, 14-331, 14-349, 14-404 14-422, 14-443, 14-480, 14-497, 14-530, 14-567, 14-584, 14-606, 14-663, 14-837

**UNOPPOSED EMERGENCY MOTION FOR EXTENSION  
OF TIME AND TO FILE DEFERRED APPENDIX**

Appellants in the above captioned matters respectfully move this Court for an Order extending the date for Appellants to file the Deferred Appendix from December 2, 2014, to December 9, 2014. All appellants in the above captioned matters join in this request, and Appellees do not oppose.

**NATURE OF THE EMERGENCY**

This request for relief is filed as an emergency motion under LRAP 27.1(d) because the relief sought will have an immediate impact on the case management of this appeal. Appellants believe that action is needed on this motion by November 25, 2014, to provide the parties sufficient time to prepare and coordinate the filing of the Deferred Appendix pursuant to the schedule proposed herein.

## **BACKGROUND**

As set forth in Appellants' Unopposed Emergency Motion for Case Management Relief, ECF No. 931, filed May 19, 2014, the Supplement to Motion for Case Management Relief, ECF No. 933, filed May 22, 2014, and Appellants' Unopposed Emergency Motion for Extension of Time and to File an Oversized Brief, ECF No. 1125, filed October 17, 2014, the 27 separate appellants or groups of appellants have endeavored to coordinate the prosecution of their appeals, reduce the number of briefs filed and duplication within briefs, with the goal of reducing the burden to this Court. To date, the Court's case management has greatly facilitated the Appellants' coordination efforts.

In its Order of May 27, 2014, ECF No. 936, the Court, *inter alia*, granted Appellants leave to proceed on a Deferred Appendix, and granted Appellants' request that the Deferred Appendix be filed within 7 days of the filing of Appellants' reply briefs. Pursuant to this Court's Order of October 20, 2014, ECF No. 1131, Appellants' reply briefs are due on November 25, 2014, and the Deferred Appendix is accordingly due on December 2, 2014.

## **RELIEF REQUESTED**

Appellants have been diligently working together, and coordinating with Appellees, to prepare the Deferred Appendix. Given the volume and scope of the briefing in these consolidated appeals, however, preparing the Deferred Appendix

and streamlining its contents is proving to be a more labor-intensive and complex task than Appellants initially anticipated. Appellants therefore respectfully request a one week extension of time to file the Deferred Appendix.

The Court's prior case management order assisted 27 appellant groups to work together to file 12 briefs—rather than as many as 27—and to reduce duplication across these briefs. The requested relief will similarly enable Appellants to file a more economical, less voluminous Deferred Appendix.

Appellants respectfully request that the Court enter an Order extending the date to file the Deferred Appendix from December 2, 2014, to December 9, 2014.

DATED: New York, New York  
November 21, 2014

CONSTANTINE CANNON LLP

By: /s/ Jeffrey I. Shinder

Jeffrey I. Shinder  
Gary J. Malone  
A. Owen Glist  
335 Madison Avenue, 9th Floor  
New York, New York 10017  
Telephone: (212) 350-2700  
Facsimile: (212) 350-2701

## CERTIFICATE OF SERVICE

I herby certify that on November 21, 2014, I filed an electronic copy of Appellants' Emergency Motion for Extension of Time and to File Deferred Appendix using the ECF system thereby serving all parties required to be served.

\_\_\_\_\_  
s/Jeffrey I. Shinder

Jeffrey I. Shinder